REMARKS

Claims 1, 102-105 are under consideration. Claims 10-20, 25-26, 31-46, and 101 were previously withdrawn, and are canceled herein. Claim 1 has been amended. Claims 103 and 104 have been canceled, and claim 106 added to replace claim 104 with the correct dependency. No new matter is introduced by these amendments, and entry is respectfully requested.

Objections to the claims

On page 3 of the Final Office Action mailed August 4, 2008, the Examiner objects to claim 105 as duplicative of claim103, should claim 103 issue. Applicants have canceled claim 103, and added new claim 106 to replace claim 104 with a claim having the correct dependency. Thus, this objection may be withdrawn.

Rejection under 35 U.S.C. § 102

On page 3 of the Final Office Action, the Examiner rejects claims 1 and 102-105 under 35 U.S.C. § 102(a) "as anticipated by Kalstad et al. (Proceedings of the Second Joint EMBS/BMES Conference Oct 23-26, 2002…)." Applicants respectfully traverse the rejection.

The present invention is a CIP of application Ser. No. 10/295,734, filed Nov. 15, 2002; which in turn claims the benefit of provisional application Ser. No. 60/332,746, filed Nov. 16, 2001. An Application Data Sheet was filed in the instant application on December 2, 2008, and a copy of this paper is supplied herewith for the Examiner. The priority date of the present application is November 16, 2001, the filing date of the provisional application.

Further regarding the provisional application from which the present application derives, the sequence CNAFKILVVITDGEK is disclosed in the provisional application at, for example, page 6. The sequence was linked to a hydrophilic polymer (dextran), and this bioconjugate dramatically reduced inflammatory adhesion. Please note also that the hydrophilic polymers are discussed on page 4 of the provisional application. The provisional application also provides , for example at page 5, support for a peptide based on the ICAM-1 binding pocket (A domain) of CD11b/CD18 covalently conjugated to dextran.

Hence, the Kalstad reference is not applicable as a § 102(a) reference, and the rejection may be withdrawn.

The Examiner, on page 4 of the Final Office Action, rejects claim 1 under 35 U.S.C. § 102(b) "as anticipated by Kalstad..." Applicants traverse the rejection.

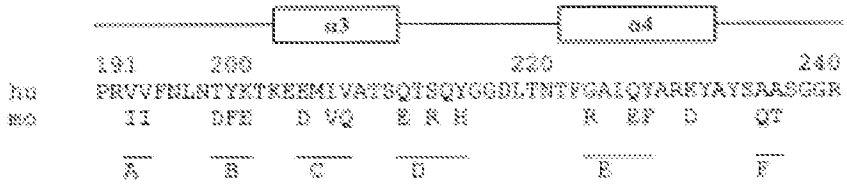
The Examiner bases the rejection on the reference in Kalstad to the sequence CNAFKILVVITDGEK conjugated to dextran, and the sequence CNAFKILVVITDGEK is identical to the sequence of the peptide identified in claim 1 as SEQ ID NO:124. In an effort to expedite prosecution, Applicants have removed the element of SEQ ID NO:124 from the Markush group of claim 1. Hence, Kalstad, does not anticipate claim 1. Applicants request that this rejection be withdrawn.

Next, on page 6 of the Action, the Examiner rejects claim 1 under 35 U.S.C. § 102(b) "as anticipated by ... Tuckwell 1995... as evidenced by ... Tuckwell 2000 ..." Applicants traverse the rejection.

The Examiner states that Tuckwell 1995 teaches "a glutathione S-transferase ralpha2I fusion protein" that Tuckwell 2000 evidences "includes" in Figure 7 as TYKTKEEMIVATSQTSQY, which the Examiner identifies as SEQ ID NO:2. The fusion discussed in Tuckwell was a transitory structure as evidenced by Tuckwells discussion:

> [T]he glutathione S-transferase-ra2I fusion protein eluted with 5 mM glutathione in 50 mM Tris-HCl, pH 8.0. The fusion protein was then dialysed against TBS to remove the glutathione and cleaved with thrombin (Sigma; 1:100 (w/w) enzyme:fusion protein) in the presence of 2.5 mM CaCl2for 3 hours at room temperature...

This fusion is not therapeutic as recited in claim 1. Additioanlly, although the sequence in Figure 7, presented here:



does not read on claim 1 that recites "one or more peptides selected from ... SEQ ID NO:2" (as opposed to a peptide ***including*** SEQ ID NO:2), claim 1 has been amended. Moreover, claim 1, as

amended, recites that the hydrophilic polymer is a ***non-proteinaceous*** hydrophilic polymer. Hence, Tuckwell does not recite each and every element of claim 1, and this § 102 rejection should be withdrawn.

CONCLUSION

For at least the reasons set forth above, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance of the claims are earnestly requested. The Commissioner is hereby authorized to charge any payment deficiency to Deposit Account No. 19-2380 referring to Attorney Docket No. 049954-004100.

Should the Examiner have any questions that would facilitate further prosecution or allowance of this application, the Examiner is invited to contact the Applicants' representative designated below.

Dated: December 3, 2008

By: /Mary S. Webster, Reg. No. 37,156/
Mary S. Webster
Reg. no. 37,156

Customer No. 22204
NIXON PEABODY LLP
Suite 900
401 9th Street, N.W.
Washington, DC 20004-2128
Telephone: (202) 585-8000